

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-491

September 12, 2002

PUBLIC UTILITIES COMMISSION  
Investigation of Central Maine Power Company's  
Line Extension Policy for Polyphase Service

NOTICE OF INVESTIGATION

---

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

**I. SUMMARY**

By way of this Notice, we initiate a formal investigation into Central Maine Power Company's (CMP) application of its polyphase<sup>1</sup> line extension policy.

**II. BACKGROUND**

On January 31, 2001, Northern Cumberland Memorial Hospital, a/k/a Bridgton Hospital (Bridgton or Hospital) and 19 other persons filed a complaint against CMP pursuant to the provisions of 35-A M.R.S.A. §§ 1302. *Northern Cumberland Memorial Hospital a/k/a Bridgton Hospital, et. al. v. Central Maine Power Company*, Docket No. 2001-82.<sup>2</sup> In its complaint, Bridgton stated that as part of a hospital expansion project, which required a new line into its new facility, CMP demanded that the Hospital pay for upgrading the new primary conductor from the substation since existing circuits were near capacity but were not scheduled for improvement for several years, and also to pay for the installation of substation equipment associated with the new distribution circuit.

Bridgton alleged that CMP's practice of requiring customers to pay for system upgrades under the provisions of its line extension tariff constituted an unjust, unreasonable or discriminatory practice and therefore violated the provisions of 35-A M.R.S.A. § 301 and 702. In addition, because the charges which CMP intended to impose were not set forth in CMP's tariffs, CMP's practices also violated the provisions of section 309 which prohibits a utility from charging for any service an amount other than the rate, toll or charge specified in its schedules filed with the Commission.

On February 12, 2001, CMP filed its response to Bridgton's complaint, claiming that it was entitled to charge Bridgton for the improvements to its system under the Company's polyphase line extension policy which required the customer to reimburse

---

<sup>1</sup>The term "polyphase" refers to multi or three-phase service which is required to provide service to many businesses and large users of electricity.

<sup>2</sup>Bridgton's initial filing and subsequent filings in this docket may be found on the Commission's web site, [www.state.me.us/mpuc](http://www.state.me.us/mpuc), by accessing the PUC virtual case file.

the Company for all costs related to the construction of the line. The Company further argued that the circuit running through Bridgton and serving the Hospital and the transformer at the substation serving the Hospital would be above capacity as a result of the new net load of the Hospital. Because these facilities were not scheduled to be replaced in the foreseeable future, the Hospital should be responsible for the costs of the additional investment in the system precipitated by the Hospital's increased load. The Company claimed that it had only allocated a portion of its system upgrade costs to the Hospital as part of its line extension charge to the Hospital and thus, in its view, was being extremely generous.

On March 5, 2001, counsel for Bridgton informed the Commission that the hospital and CMP had resolved their dispute and, therefore, Bridgton was voluntarily withdrawing its complaint.

On July 17, 2001, the Commission sent a letter to CMP informing the Company that based on the information provided in the Bridgton complaint, the Commission had decided to initiate a summary investigation of the Company's application of its polyphase line extension tariff as it relates to requests for payments from customers for system upgrades or "upstream costs"<sup>3</sup> pursuant to the provisions of 35-A M.R.S.A. § 1303(1). *Public Utilities Commission, Summary Investigation of Application of Line Extension Tariff*, Docket No. 2001-499. During the course of this summary investigation, the Commission sought to answer the following questions as they related to requests for payment of upstream costs:

1. How is CMP applying its polyphase line extension tariff?
2. What is the rationale or support for the current policy?
3. Has there been a change in CMP's policy on upstream costs?
4. Has there been a change in the application of the tariff?
5. What revenue impact does any policy change have?

### III. RESULTS OF THE SUMMARY INVESTIGATION

As part of its initial data request to CMP, the Staff requested CMP to provide all instances in which it had asked for customers to pay for upstream costs as part of its line extension tariff. CMP stated that since 1998 it had completed over 800 requests for

---

<sup>3</sup>As used in this Notice, the term "upstream costs" means costs to construct, improve, replace or otherwise upgrade the portions of CMP's existing transmission and distribution system that do not include a single customer's line extension. The term does not include the costs to construct a new line extension or to upgrade an existing line extension.

polyphase service and that in order to respond to this request, CMP would have to perform a manual search of all of its line extension job records which would take approximately three months.

In lieu of providing this information, CMP provided the Staff with several examples of recent polyphase line extension jobs and how the charges were calculated. CMP also responded to how charges would be calculated under a variety of hypothetical conditions. Based on this information, it appears that CMP does frequently ask that customers pay for system upgrades when such upgrades are required as part of meeting the demand of a new or upgraded polyphase service installation. The determination of when and what a customer should pay seems to be done on a case by case basis based on expected customer usage, usage by other customers, the capacity of existing facilities, the Company's scheduled date for expansion of the facilities and miscellaneous factors such as the economic benefits of the expansion.

CMP argues that Section 7.2.B.2 of its approved Terms and Conditions supports its position of requiring payment for upstream costs. Section 7.2.B.2 provides that a customer requesting a polyphase line extension shall:

Reimburse the Company for all costs related to the construction of the line, including converting the line from single-phase to polyphase excluding the cost of the meter. These costs shall include any tax imposed on the Company related to the transaction. The costs shall be based on designed costs generated from historical data. This cost shall not be changed unless the customer requests design changes. This payment shall not be reduced based on the expected usage of the customer. This payment shall not be refundable in whole or in part, even if additional customers are served from the line.

The above-referenced polyphase line extension policy went into effect in 1997. Prior to that time, CMP analyzed the revenue (net of fuel costs) expected from the customer and if that amount exceeded the construction costs, no upfront payment was required. CMP claims that in doing this analysis it always took into account upstream costs. So in CMP's view, nothing really changed with regards to upstream costs when the line extension policy changed. In actuality, because the revenue stream generally was sufficient to cover the costs of construction, customers were unaware of the extent to which CMP considered them responsible for upstream costs. Thus, from the customer's perspective, how responsibility for upstream costs was assigned as part of the line extension process did change when CMP changed its line extension policy.

In 1996, under the Company's old line extension policy, the Company received \$135,000 from customers requesting polyphase service. During 2000, CMP received \$3,100,000 from customers for polyphase construction and in the first half of 2001 it received \$1,700,000. CMP's rates are currently governed by a rate cap or alternative

rate plan approved by the Commission in *Central Maine Power Company, Request for Approval of Alternative Rate Plan (Post Merger)* “ARP 2000,” Docket No. 99-666, Order Approving Stipulation (Nov. 16, 2000). Under the terms of the ARP 2000 plan, CMP’s rates are adjusted annually based on the results of the price index formula which is calculated by subtracting a productivity offset from last year’s inflation rate adjusted for specified mandated costs, earnings sharing and service quality penalties. The starting point rates for the ARP 2000 were established in the “megacase” which set CMP’s rates as part of restructuring the electric industry in Maine. *Public Utilities Commission, Investigation of Central Maine Power Company’s Stranded Costs, Transmission and Distribution Utility Revenue Requirements and Rate Design*, Docket No. 97-580, Order Approving Stipulation (Feb. 15, 2000). Given the complexity of the restructuring process, it was necessary to start the megacase well in advance of the start of retail access and therefore, the Commission used 1996, the year before the new policy went into effect, as the test year in the megacase to set rates. CMP argues that any positive revenue impact of its policy change in 1997 is at least partially offset by the fact that the attrition analysis in Docket No. 97-580 included a capital expansion budget which incorporated the impact of the new line extension policy. CMP also argues that any positive contribution the Company is now receiving is offset by the fact that CMP now is no longer charging customers for continued O&M on the line. Therefore, CMP argues that if we were to disallow collection of construction costs, CMP would in fact be adversely affected.

#### IV. DETERMINATION

Pursuant to the provisions of 35-A M.R.S.A. § 301, every public utility is required to furnish safe, reasonable and adequate service and facilities at just and reasonable rates. In setting rates, the Commission is to fix a reasonable value upon all property of a public utility used or required to be used in its service to the public within the state and provide the utility with a reasonable opportunity to earn a fair return of and on its property. 35-A M.R.S.A. § 303.

As the Law Court has noted on numerous occasions, the Commission has broad discretion within these statutory requirements to adopt ratemaking methodologies which produce just and reasonable rates. *New England Tel. & Tel. Co., v. Public Utilities Commission*, 470 A.2d 772, 776 (Me. 1984). Historically, the Commission has used a “test-year revenue requirement” methodology to set rates. Under test-year ratemaking, investors of the utility are provided with a reasonable opportunity for a return of their investment by including depreciation expense in the revenue and with a reasonable opportunity to earn a return on their investment by applying the utility’s overall cost of capital to the Company’s rate base or net investment. As a general matter, the Commission has required the utility to invest sufficiently in its infrastructure to provide adequate and reliable service and has not allowed recovery of the investment in rates until the investment has actually been made and the facility was put into service. See *Central Maine Power Company, Increase in Rates*, Docket No. 81-127 and *Central Maine Power Company, Investigation of Justness and Reasonableness of Rates*, Docket No. 81-206 (Mar. 27, 1982), Decision and Order at 52, and *Pollis v. New*

*England Telephone Company*, U. 3285, 25 PUR 4<sup>th</sup> 529, 534 (June 12, 1978). By including the costs of a utility's investments in its revenue requirement to be recovered from the body of ratepayers, utility infrastructure costs can be seen as being "socialized" and recovered over time through rates. We find that CMP's application of its current line extension tariff may represent a deviation from this historical approach which warrants further investigation pursuant to the provisions of 35-A M.R.S.A. § 1303(2). We are particularly concerned that the determination of whether a customer will be charged for system upgrade costs under CMP's existing line extension policy to a large extent seems to be a matter of chance of when the customer is requesting service and when the Company's construction budget calls for upgrading a particular facility.<sup>4</sup>

In initiating this investigation, we recognize that several years ago the Commission approved a modification to CMP's single phase line extension tariffs on the basis that the change more closely aligned CMP's charges with the causer of the costs. *Central Maine Power Company, Revisions to Terms and Conditions, Single-Phase Overhead Line Extensions, Customer's Installation and Meters*, Docket No. 99-042, Order (Nov. 10, 1999). We do not believe our decision to initiate this Investigation is inconsistent with our decision in Docket No. 99-042. In Docket No. 99-042, we decided that customers who seek to extend CMP's current distribution system should be responsible for the costs of the extension. The questions we seek to address here are the extent to which customers who are requesting an extension should have to pay for costs to improve the existing grid and where the line should be drawn between grid costs to be paid for by the Company and later recovered in rates and line extension costs to be absorbed by the customer.

As part of this investigation, we will also address the following issues:

1. Is CMP's application of its polyphase line extension tariff consistent with the language of the tariff?<sup>5</sup>

---

<sup>4</sup>Our initiation of this formal investigation should not be construed as an indication that we have made any pre-determinations on any of the issues which will be the subject of this investigation. Our decision to initiate this investigation rather reflects our determination that the results of the summary investigation were either inconclusive or warrant further examination and analysis by the Commission.

<sup>5</sup>As noted above, CMP's current tariff requires a customer to reimburse the Company for "all costs *related to the construction of the line.*" It is not evident to us that the costs of upgrading CMP's existing system associated with the increased demand of a customer requesting polyphase service are "related to the construction" of the polyphase line. Even if the provisions of the current tariffs do authorize charging for system upgrades, the larger question of whether a public utility is authorized or should be authorized to assess such charges under the statutory provisions governing public utilities still must be addressed.

2. Is CMP's line extension policy consistent with the utility's obligations to provide safe, adequate and reliable service at just and reasonable rates?<sup>6</sup>
3. Is CMP's current practice consistent with Commission ratemaking policy?
4. Does the line extension tariff contain sufficient objective criteria to ensure that customers are treated consistently and are not subject to undue discrimination in violation of 35-A M.R.S.A. § 702?
5. Even if CMP's current policy is consistent with CMP's current tariff and current statutory requirements, should the Commission as a matter of policy require that the tariff be modified pursuant to the provisions of 35-A M.R.S.A. § 702(3)?<sup>7</sup>
6. Has the Company's changed policy had any impact on the revenues assumed by the Commission in setting rates in Docket No. 97-580? If so, how should such a change be reflected under the Company's alternative rate plan?

---

<sup>6</sup>In determining whether a utility's service practices were unreasonable or inadequate, the Commission in the past has relied on the following standards:

- (1) whether the company's practice substantially departs from the regular and accepted practice of the company in question as well as that of other utilities in general;
- (2) whether benefits to the company of the practice are outweighed by the adverse impact of the practice on the ratepayers; and
- (3) whether the company's practice results in inadequacy of service when considering such factors as (a) the number of customers affected, (b) the duration of the impact, (c) the reason for the company's action, and (d) the departure from historic trends.

*See Pollis, supra., and Hogan et. al. v. Hampden Telephone Company, F.C. 2438, 36 PUR 4<sup>th</sup> 480, 485.*

<sup>7</sup>As part of their filings in this matter, we ask that the parties address the issue of the interrelationship, if any, between the FERC's recent notice of proposed rulemaking regarding interconnection of distributed generation and CMP's polyphase line extension policy.

**V. INTERVENTION**

As the subject of this investigation, Central Maine Power Company shall be considered a party at the outset. Other persons wishing to participate in this proceeding as a party may file a petition to intervene in accordance with section 722 of the Commission's Rules of Practice and Procedure no later than September 23, 2002.

**VI. SERVICE OF NOTICE**

A copy of this Notice shall be served on all parties to Docket Nos. 97-580, 99-666, 99-042 and 2001-82.

Dated at Augusta, Maine, this \*\*<sup>th</sup> day of September, 2002.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.